

SATURDAY, December 8th, 1855.

The Senate was called to order by the President pursuant to adjournment—roll called—quorum present.

The Journal of yesterday was read and adopted.

Mr White presented the memorial of sundry citizens of Indiana; referred to the committee on Internal Improvements.

Mr McDade presented the memorial of sundry citizens of Chapel Hill; referred to the committee on State affairs.

Mr Grimes presented the petition of Abner H. Cook; referred to the committee on public buildings.

Mr Hill presented the petition of Arthur Applewhite, and the petition of the heirs of Henry Applewhite; referred to the committee on private land claims.

Mr Superviele presented the petition of the heirs of Antonio Rivas; referred to the committee on public lands.

Mr Guinn, chairman of the committee on engrossed bills, reported the following bills correctly engrossed :

A bill to incorporate Larissa College.

A bill relating to the duties of Assessors and Collectors of Taxes.

A bill to amend the 21st section of an act to organize county Courts, approved 16th of March, 1848. And

A Bill for the relief of the heirs of John P. Rohers.

Mr Potter, chairman of the committee on the Judiciary, to which was referred a bill to incorporate Milam Lodge, No. 23, I. O. O. F.—reported the same back and recommended its passage.

Mr Potter, chairman of the same committee, made the following report :

The Judiciary committee have considered “a bill concerning the estates of deceased persons,” and a majority of the committee direct me to report that the further consideration of the same is unnecessary, from the fact that a majority of the committee have agreed to report favorably upon another bill which has been referred to the committee, and which proposes legislative action upon the same subject which is embraced in this bill; the provisions of the last bill being more acceptable to the committee than the bill under consideration, a majority of the committee therefore, direct me to return the bill to the Senate and recommend that it lie on the table.

Mr Palmer, from the committee on the Judiciary, made the following report :

The committee on the Judiciary to which was referred "a bill to be entitled an act supplemental to the act of March 13th, 1848, entitled an act better to define the marital rights of parties," have had the same under consideration and have instructed me to report the same back with the accompanying amendments, and recommend its passage.

The object of the bill is to dispense with the necessity which the husband is now placed under of administering on the community property of himself and his deceased wife. In this prosperous and growing country, a greater portion of the property is perhaps community property, being acquired by the husband and wife after marriage. As the law is now, every man engaged in business of whatever character, is compelled on the death of his wife, to administer on what may properly be called his own property, close up his business at whatever sacrifice; have his property partitioned between himself and his children, and take out letters of guardianship for them, before he can sell or convey any part of his property and confer good title.

While the bill undertakes to remedy this great and growing evil, it is believed that it protects fully the rights of all parties claiming under the community law. The bill also provides for giving to the wife like control of the community property after the death of the husband, with certain limitations and restrictions. The committee in recommending the passage of this bill, feel assured that there is no subject more urgently demanding the attention of the Legislature than the present.

Amendments. After section 3rd, insert section 4th, as follows:

"That should said surviving husband neglect, fail or refuse to file said inventory in the county Court as required by the provisions of this act, within sixty days after the death of his deceased wife, the county Court may, upon its own motion, or the motion of any party interested, require him to do so, otherwise grant administration upon said estate as in other cases provided by statute, and if, upon the filing of said inventory, it shall appear to the Court that it is in any way necessary for the protection of the property belonging to said estate, bond and security may be required of said surviving husband, in such amount and upon such conditions as may be deemed necessary by the Court for the protection of the creditors and heirs of said estate. And upon failure to execute said bond with security, as required by said Court, administration may be granted upon said estate as in other cases."

And at the end of the bill, add section 7th, as follows:

"That the surviving wife may retain the exclusive control

and management of the community property of herself and her deceased husband, in the same manner and subject to the same rights, rules and regulations as provided in the foregoing provisions of this act, until she may marry again. But upon a second marriage she shall cease to have such control and management of said estate, or the right to dispose of the same under the provisions of this act, and said estate shall be subject to administration as in other cases of deceased persons' estates."

And section 8th, as follows:

"That this act take effect and be in force from and after its passage, and that the provisions of all laws, so far as they conflict with the provisions of this act be, and the same are hereby repealed."

Mr Flanagan, chairman of the committee on Internal Improvements, to which was referred "a bill for the temporary relief of the Galveston, Houston and Henderson Rail Road Company," reported a substitute therefor, and recommended the adoption of the substitute, and passage of the bill.

Mr Flanagan, chairman of the same committee, made the following report:

The committee on Internal Improvements, have had before them a bill for the construction of a Rail Road from the town of Henderson to the State line, and the committee after a careful examination, find that this is a very desirable and worthy enterprise, and when we take into consideration the fact that the Vicksburg and El Paso Railroad is now being rapidly constructed and taps the State within or about 40 miles North-east of the town of Henderson and the whole line runs through a wealthy and densely populated portion of the State. It is also confidently asserted and believed that the chartered parties who are principally wealthy farmers, having many slaves, can readily build this road within themselves, without seeking aid out of the State, looking alone to the State and their own resources, I am instructed to report the bill back and recommend its passage.

Mr Hord, chairman of the committee on State affairs, to which was referred "a bill exempting one or more slaves from forced sale," reported the same back and recommended its passage.

A message was received from the House, informing the Senate that the House had concurred in the Senate's amendment to the "bill to create the county of Parker."

Mr Armstrong introduced a bill for the relief of John McCoy; read first time.

Mr McCulloch introduced a bill for the relief of the Buffalo Bayou, Brazos, and Colorado Railway company, or their assignees, in certain cases; read first time.

Mr Taylor of Fannin, introduced a "bill donating land to Bonham Masonic Female Academy; read first time.

Mr Bryan introduced a bill appropriating certain monies in the Treasury to the school fund; read first time.

On motion of Mr Taylor of Fannin, the rule was suspended and "a bill donating land to Bonham Female Academy," read 2nd time and referred to committee on public lands.

On motion of Mr McCulloch, the rule was suspended and "a bill for the relief of the Buffalo Bayou, Brazos and Colorado Railway company, or their assignees, in certain cases," read 2nd time and referred to the committee on State affairs.

On motion of Mr McCulloch, the rule was suspended, and "House bill making appropriations to pay the expenses of volunteers called into the service of the State, for the protection of the frontier, and for other volunteer service"—read second time and referred to the committee on Finance.

Mr Wren was excused from the committee on the land office, and Mr Guinn appointed in his stead.

On motion of Mr Grimes, the report of the committee on Finance on "House bill fixing the salary of the Governor" recommending an amendment thereto, was read.

On motion of Mr Potter, the report of the committee was laid on the table by the following vote:

YEAS.—Messrs. Allen, Bryan, Caldwell, Guinn, Hill, McCulloch, McDade, Maverick, Palmer, Pedigo, Pirkey, Potter, Scarborough, Superviele, Taylor of Cass, Whitaker, and White—17.

NAYS.—Messrs. Armstrong, Flanagan, Grimes, Lott, Martin, Millican, Russell, Scott, Taylor of Fannin, Taylor of Houston, Truit and Wren—12.

The bill was then passed to a third reading.

Mr Potter moved a further suspension of the rule; lost.

ORDERS OF THE DAY.

A bill to provide for the investigation of land titles in certain cases, under consideration on yesterday morning when the Senate adjourned, was then taken up.

On motion of Mr Flanagan, the Bill was amended by inserting after the word "Wood" the word "Rusk."

On motion of Mr Taylor of Houston, the bill was amended by adding after the word "Rusk" the words "Anderson" and "Houston."

On motion of Mr Millican, the bill was amended by adding after the word "Houston" the words "Leon, Robertson, Brazos" and "Burleson."

On motion of Mr Lott, the bill was amended by inserting after the word "Burleson," the words "Smith" and "Van Zandt."

On motion of Mr Martin, the bill was amended by inserting after the word "Van Zandt" the words "Henderson, Navarro, Freestone and Hill."

On motion of Mr Allen, the bill was amended by inserting after the word "Hill" the words "Kaufman, Collin, Grayson, Cook and Denton."

Mr Palmer offered the following amendment to come in at the end of section 3rd:

"Provided that said judgement shall be final between the parties claiming under such titles so investigated and the State, but shall not affect the vested rights of third persons, claiming under better titles."

Mr Taylor of Cass, offered the following as a substitute for the amendment:

"Provided that such confirmation shall not affect the interests of third parties;" adopted.

Mr Palmer offered the following amendment to the amendment:

"But shall be final between the parties claiming under such titles and the State."

Mr Russell moved to lay the amendment, and the amendment to the amendment on the table; lost.

On motion of Mr Scott, the amendment to the amendment was laid on the table.

The substitute was then adopted.

On motion of Mr Guinn, the bill was amended by striking out in 1st section, "since the 5th day of May 1830."

On motion of Mr Allen, the vote adopting the amendment, "adding the counties of Kaufman, Collin, Grayson, Cook and Denton," was reconsidered.

Mr Allen then withdrew the amendment.

On motion of Mr Bryan, the bill was amended by adding to the last section, "or to any title or grant to land in the colonies of Austin."

On motion of Mr Millican, the bill was amended by adding after Mr Bryan's amendment:

"Provided that nothing in this act shall be so construed, or any decisions of any of the Courts made in accordance with the provisions of this act shall be so construed as to effect, in anywise, any of the titles to land embraced, ratified and confirmed by the 24th section of an act of the Congress of the late Republic of Texas, approved December 14th, 1837."

The bill was then ordered to be engrossed by the following vote:

YEAS—Messrs. Allen, Armstrong, Flanagan, Grimes, Guinn,

Lott, Martin, Millican, Pirkey, Russell, Scott, Taylor of Cass, Taylor of Houston, Truitt, Weatherford, White and Wren—17,
 NAYS—Messrs. Bryan, Caldwell, Hill, Hord, McCulloch, McDade, Maverick, Palmer, Potter, Scarborough, Superviele, Taylor of Fannin, and Whitaker—13.

The report of the committee on public lands, on "a bill to confirm certain head right grants in the colonies of Austin and Dewitt," offering "a bill to quiet land titles," as a substitute therefor, was read and substitute adopted.

On motion of Mr Armstrong the bill was amended by striking out in the 1st section, "14th" and inserting "13th" and by striking out *Sec. 2d* and inserting, *Sec. 2.* "That the right of the State is hereby released to all persons now holding, or who may hereafter hold peaceable possession of land, cultivating and using the same, under a legal headright title from the Government, or under any genuine Certificate for headright, Landscript, or Bounty Warrant, or other evidence of title or claim to land, which have been located or surveyed according to law, and the performance of all conditions attached to any title issued previous to the 13th of Nov. 1835; under which any occupant holds, are hereby released in their favor, and they shall be entitled to the land so occupied by them not to exceed one League, notwithstanding the land thus occupied may constitute a portion of a grant exceeding one League and labor of land."

Mr Flanagan offered the following amendment, "provided that this act shall confirm no grant or any right to a person or persons who voluntarily left the country, aided or assisted the enemy, or domiciliated beyond the limits of the State, during the struggle for independence. This is not to apply to those who left the country to secure their families."

On motion of Mr Palmer the amendment was laid on the table.

On motion of Mr Scott the bill was amended by adding to *Sec. 2d* "provided that this section shall not make valid any title that was void from the beginning, or effect the rights of third parties."

Mr Martin moved to amend by adding to the end of *Section 2d*, "nor shall confirm any grant or right to any person or persons, who left Texas and went to the enemy's country, aided or assisted the enemy during the struggle for Independence, or to any person deriving title by or through such."

Mr Palmer moved to amend the amendment by inserting "voluntarily" before "left," and by striking out "or any person claiming under such," carried.

The amendment as amended was then adopted.

The bill was then ordered to be engrossed.

On motion of Mr. Hill a bill supplemental to an act entitled an act to incorporate the town of Lagrange in the county of Fayette, was taken up, read 2d time and passed to a third reading.

On motion of Mr. Hill, the rule was suspended, bill read 3d time and passed.

On motion of Mr. Grimes the Senate adjourned until 3 o'clock, P. M.

3 o'clock P. M.

The Senate was called to order by the President pursuant to adjournment—roll called, quorum present.

Mr. Potter withdrew his motion to lay on the table the motion of Mr. Martin to reject the bill to prescribe a code of civil procedure for the State of Texas.

Mr. Martin withdrew his motion to reject the bill.

The first reading of the bill was then resumed.

On motion of Mr. Allen the Senate adjourned until Monday morning 10 o'clock.

MONDAY, December 10th, 1855.

The Senate was called to order by the President, pursuant to adjournment—roll called—quorum present.

The Journal of Saturday was read and adopted.

Mr. Martin presented several petitions of the citizens of Limestone county, asking a change of the county seat—referred to the committee on counties and county boundaries, and the petition of Francisco Sanches—referred to the committee on Private Land Claims.

Mr. Lott presented the petition of the heirs of Elizabeth Jones—referred to the committee on Private Land Claims.

Mr. Taylor of Fannin, presented the petition of the heirs of John Ragsdale—referred to the committee on Private Land Claims.

Mr. McCulloch presented the petition of Alexander McCulloch—referred to the committee on Private Land Claims.

Mr. Armstrong presented the petition of James Rogers—referred to the committee on Finance.

Mr. Truit presented the petition of Wm. F. Stephenson—referred to the committee on Private Land Claims. Also, the petition of Bailey Lout—referred to the same committee.

Mr. Guinn, chairman of the committee on Engrossed Bills reported the following bills correctly engrossed:

"A bill to incorporate the city of Marshall."